

# Court of Appeals, State of Michigan

## ORDER

Oscar Estrella Lopez v General Motors Corporation

Docket No. 259467

LC No. 04-416528-NP

Michael J. Talbot  
Presiding Judge

Kirsten Frank Kelly

Karen M. Fort Hood  
Judges

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The Court orders, pursuant to MCR 7.205(D)(2), that the trial court's November 11, 2004 order denying defendant's motion to dismiss is VACATED. This Court reviews a trial court's decision on a motion to dismiss on the basis of forum non conveniens for an abuse of discretion. *Miller v Allied Signal Inc*, 235 Mich App 710, 713; 599 NW2d 110 (1999). In this case, the trial court essentially ruled that because venue was proper in Wayne County, dismissal was not warranted. However, the principle behind the doctrine of forum non conveniens is that, even though venue and jurisdiction are proper in a particular court, that court may reject its right to consider the case where another proper forum will "best serve the convenience of the parties in the end of justice." *Cray v General Motors Corp*, 389 Mich 382, 391; 207 NW2d 393 (1973), quoting *Gulf Oil Corp v Gilbert*, 330 US 501, 531-532; 67 S Ct 839; 91 L Ed 1055 (1947). In *Cray, supra* at 395-396, our Supreme Court set forth several factors which must be considered to properly determine whether the forum selected by the plaintiff is unduly burdensome. By failing to analyze defendant's motion in light of the *Cray* factors, the trial court abused its discretion.

This matter is REMANDED to the trial court for further proceedings consistent with this order. The trial court shall, among other things, consider, and make findings regarding, the factors set forth in *Cray*. We do not retain jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAY 06 2005

Date

*Sandra Schultz Mengel*  
Chief Clerk